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January 4, 2006

Fangeminque Smith, Art Unit 3736
Organization TC 3700
Randolph Building
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Ms. Smith,

Subject: FINAL ACTION, Dated 01/03/07

With regard to the above subject, I have the following comments to submit for your consideration:

I believe that the following arguments pertain in general to a major portion of the objections as given in Paragraphs 3, 5, And 6:

There are a number of patents within the files of the patent office that set a precedent allowing an author to utilize previous technology, but for a different application. For example the patent by Pompei* and the subsequent patent by Baratta* is a prime example of this. Pompei invented a device that detected an ear infection by accurately measuring the temperature of the tympanic membrane. I utilized essentially the same device by internally measuring the temperature of the eye. I was granted a patent because of a markedly different application of an already known process. There are many more such examples in the files of the patent office. However, for the sake of brevity I will cite them later, if necessary.

In addition, on Page 6 of your FINAL ACTION, you state that "Examiner considers the eye socket as a bodily cavity in this case". From Gray's anatomy, the following is a description of a body cavity: "Bodily Cavities: Spaces *within* the body that contain *internal* organs are called BODY CAVITIES. The two principal cavities are dorsal and ventral body cavities". I respectfully submit that the eye socket does not contain an internal organ it contains the eye, which is not within the body. Also, Gray's description of the eye is: "THE EYE: The bulb of the eye (bulbus oculi; eye ball) or organ of sight, is contained in the cavity of the orbit, where it is protected from injury and moved by the ocular muscles."

Please contact me as soon as you can on receipt of this letter either via telephone or e-mail to discuss the above.

Thank you for your consideration.

Sincerely,

Francis I. Baratta, ME, P.E.

*Pompei, US Pat. No. 5,199,436, "Radiation Detector Having Improved Accuracy" and that by Baratta, US Pat No. 5,813, "Noncontacting Portable Infrared Intra-Ocular Pressure sensor".